

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 99-1292

United States of America,

Appellee,

v.

Wenceslao Machado Alvarez,

Appellant.

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* Appeal from the United States

* District Court for the

* District of Minnesota.

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[UNPUBLISHED]

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Submitted: June 6, 2000

Filed: June 16, 2000

Before LOKEN, FAGG, and HANSEN, Circuit Judges.

PER CURIAM.

Wenceslao Machado Alvarez appeals the district court's¹ denial of his motion for safety-valve relief under U.S. Sentencing Guidelines Manual § 5C1.2 (1998). Alvarez pleaded guilty to conspiring to distribute and possess with intent to distribute methamphetamine, in violation of 21 U.S.C. §§ 846 and 841(b)(1)(A), after surveillance officers videotaped him taking part in three drug transactions. An officer testified at sentencing that Alvarez claimed in his "proffer" interview that he had never

¹The HONORABLE JAMES M. ROSENBAUM, United States District Judge for the District of Minnesota.

been involved in drug dealing other than on those three occasions; the officer then explained why he considered that claim untruthful. Noting the improbability of Alvarez's claim, the district court credited the officer's disbelief and determined that Alvarez had not truthfully provided all the information he had concerning the offense, as required under section 5C1.2(5). The court sentenced Alvarez to 120 months imprisonment and 5 years supervised release. Alvarez now argues that the district court clearly erred in discrediting his statements regarding his drug involvement and denying safety-valve relief.

Having carefully reviewed the record, we conclude that the district court did not clearly err in finding that Alvarez did not meet his burden under section 5C1.2(5). See United States v. Velasquez, 141 F.3d 1280, 1283 (8th Cir.), cert. denied, 525 U.S. 897 (1998); United States v. Romo, 81 F.3d 84, 85-96 (8th Cir. 1996). Accordingly, we affirm.

A true copy.

Attest:

CLERK, U. S. COURT OF APPEALS, EIGHTH CIRCUIT.